



**MILPITAS CITY COUNCIL MEETING AGENDA
FEBRUARY 6, 2007**

**6:30 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD**

SUMMARY OF CONTENTS

I. CALL TO ORDER/ROLL CALL (6:30 p.m.)

II. ADJOURN TO CLOSED SESSION

CONFERENCE WITH LABOR NEGOTIATOR - COLLECTIVE BARGAINING

(Pursuant to CA Government Code §54957.6) City Negotiators: Art Hartinger and Carmen Valdez
Employee Group: International Association of Fire Fighters (IAFF)
Under Negotiation: Wages, Hours, Benefits, and Working Conditions

III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Govt. Code Section 54957.1, including the vote on abstention of each member present

IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)

V. INVOCATION (Councilmember Giordano)

VI. APPROVAL OF MINUTES (January 16, 2007 and January 28, 2007)

VII. SCHEDULE OF MEETINGS

VIII. PRESENTATIONS

Proclamations:

Santa Clara County Library "Silicon Valley Reads Month - February 2007"
Kathy Ynegas, 2007 Gene Schwab Memorial "Service Above Self" Award Winner

Certificate of Appointment:

Maria Magdalena Ortega, Sister Cities Commission

IX. PUBLIC FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

X. ANNOUNCEMENTS

XI. ANNOUNCEMENT OF CONFLICT OF INTEREST

XII. APPROVAL OF AGENDA

XIII. CONSENT CALENDAR (Items with Asterisks*)

XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA1. Call to Order by the Mayor**
- RA2. Roll Call**
- RA3. Approval of Minutes (January 16, 2007)**
- RA4. Approval of Agenda and Consent Calendar**
- RA5. Receive Progress Report on Library and East Parking Garage, Projects No. 8161 and No. 8162 (Staff Contact: Mark Rogge, 586-3403)**
- RA6. City of Milpitas Financial Status Report For The Six Months Ended December 31, 2006 (Staff Contact: Emma Karlen, 586-3145)**
- *RA7. Approve FY 06-07 Mid Year Budget Modifications for Operating Budget and Capital Improvement Projects Budget (Staff Contact: Emma Karlen, 586-3145)**
- *RA8. City of Milpitas Investment Portfolio Status Report for the Quarter Ended December 31, 2006 (Staff Contact: Emma Karlen, 586-3145)**
- *RA9. Approve Release of Agreement Affecting Real Property – KB Home/Elmwood Property, Parcel D (Staff Contacts: Richard Pio Roda, 586-3040, and Felix Reliford, 586-3040)**
- *RA10. Authorize the City Manager to Execute a Partial Certificate of Completion for Certain Lots within Tract No. 9698, for KB Home Project No. 3160 (Staff Contact: Mehdi Khaila, 586-3328)**
- RA11. Agency Adjournment**

XV. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

- * 1. Approve Mayor Esteves' Recommendations for Appointments/Re-Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)**
- 2. Approve Mayor Esteves' Recommendation for Appointment to the Planning Commission (Contact: Mayor Esteves, 586-3029)**
- 3. Request to Form a Citizens Sunshine Committee (Contact: Councilmember Polanski, 586-3024)**

Public Art Committee

- 4. Approve Public Art Master Plan (Staff Contact: Diana Whitecar, 586-3059)**
- 5. Approve Recommendation Not to Expand the Public Art Program (Staff Contact: Diana Whitecar, 586-3059)**

Community Advisory Commission

- * 6. Approve the 2007 Community Advisory Commission Work Plan (Staff Contact: Dennis Carrington, 586-3275)**

XVI. ORDINANCE

7. Introduce Ordinance No. 48.18 Amending an Existing Subsection to Chapter 200 of Title V of the Milpitas Municipal Code Entitled “Weekly Disposal” (Staff Contact: Marilyn Nickel, 586-3347)

XVII. RESOLUTIONS

- * 8. Adopt Resolution Granting Initial Acceptance: Singley Area Street Rehabilitation Phase IV, Project No. 8181 (Santa Rita Drive), and Annual Street Resurfacing 2006, Project No. 4229 (Lomer Way & Holly Way) (Staff Contact: Andrew Brozyna, 586-3315)
- * 9. Adopt Resolution Granting Initial Acceptance: Main Sewage Pump Station Access Improvements, Phase II, Project No. 6079 (Staff Contact: Andrew Brozyna, 586-3315)
- * 10. Adopt Resolution Approving the Agreement with the California Highway Patrol for Joint Use of the Weapons Firing Range (Staff Contact: Henry Kwong, 586-2419)
- * 11. Adopt Resolution Approving the Response to the Santa Clara County Civil Grand Jury Report on Reducing Language Barriers in Domestic Violence Calls (Staff Contact: Henry Kwong, 586-2419)
- * 12. Adopt Resolution Certifying and Annexing Tract 9775 to Community Facilities District No. 2005-1, Project No. 3204 (Staff Contact: Mehdi Khaila, 586-3328)

XVIII. BIDS AND CONTRACTS

- * 13. Award Construction Contract for Ball Park Fence Field Extension, Project No. 5064, to Central Fence Company (Staff Contact: Greg Armendariz, 586-3317)
- * 14. Approve Subdivision Improvement Agreement, Final Map and Public Improvement Plans for Paragon, Tract No. 9775, Project No. 3204 (Staff Contact: Mehdi Khaila, 586-3328)
- * 15. Approve Permittee Dedication and Improvement Agreement with Hercules L. Bacus and Brian T. Brager (“Permittee”), Project No. 2452 (Staff Contact: Mehdi Khaila, 586-3328)
- * 16. Approve Services Agreement with Cayenta Inc. to Upgrade the Utility System and the Financial System (Staff Contact: Flora Tzeng, 586-3128)
- * 17. Authorize the City Manager to Execute Agreement Amendment No. 2 with Consolidated Engineering Laboratories Services (CEL) for On-Call Materials Testing and Inspection Services for Various Projects (Staff Contact: Andrew Brozyna, 586-3315)
- * 18. Request for Authorization to Send Out a Request for Qualifications (RFQ) for Contract Planning Services (Staff Contact: Dennis Carrington, 586-3275)

XIX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, FEBRUARY 20, AT 7:00 P.M.**

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE,

CONTACT THE OPEN GOVERNMENT COMMISSION

at the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035

E-mail: rpioroda@ci.milpitas.ca.gov / Fax: 408-586-3030 / Phone: 408-586-3040

A free copy of the Open Government Ordinance is available from the City Clerk's Office or by visiting the City's website www.ci.milpitas.ca.gov, select Open Government Ordinance under News Features.

BECOME A CITY COMMISSIONER!

Currently, there are openings on the following Commissions:

Economic Development Commission (rep. for Hotel Industry)

Mobile Home Park Rental Review Board

Recycling & Source Reduction Advisory Commission (2 alternates)

Planning Commission

Applications are available online at www.ci.milpitas.ca.gov or outside the City Council Chambers.

Contact the City Clerk's Office (586-3003) for more information.

AGENDA REPORTS

XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Minutes (January 16, 2007)

RA4. Approval of Agenda and Consent Calendar

RA5. Receive Progress Report on Library and East Parking Garage, Projects No. 8161 and No. 8162 (Staff Contact: Mark Rogge, 586-3403)

Background:

Library

The construction contract for the library has been executed. A pre-construction meeting was held on January 16 including S. J. Amoroso Construction, Group 4 Architecture, CSI, SCS, and City staff from the Fire Department, Building, and Engineering sections. A pre-construction meeting was also held with the Santa Clara and San Benito Counties Construction and Building Trades on January 18. A notice to proceed was issued. The contractor has begun preparing shop drawings and submittals and is mobilizing on the site.

Staff will provide an oral report on a possible schedule and concepts for a modest library groundbreaking ceremony.

Parking Garage

Devcon Construction Inc. continues with construction of the parking garage. The first floor slab, ramp, columns, and shear walls are complete. Construction of the second floor is in progress.

Recommendation: Receive progress report from staff on the Library and Parking Garage.

RA6. City of Milpitas Financial Status Report For The Six Months Ended December 31, 2006 (Staff Contact: Emma Karlen, 586-3145)

Background:

As of December 31, 2006, the General Fund received approximately \$20.29 million in revenues. Although the revenues were lower than the same six-month period in the prior fiscal year, the results in FY 06-07 indicate that General Fund revenue will most likely exceed original revenue projection. By using trend analysis method to project the remaining six months, staff believes that the total General Fund revenue for the whole fiscal year will probably exceed budgeted revenue by about \$2 million.

However, it should be noted that FY 06-07 General Fund budget relies on a \$6.1 million loan repayment from the Redevelopment Agency to close the budget gap. The City and the Agency entered into land sale transactions for redevelopment purposes. Simultaneously, a loan for the sales proceeds was structured so that the City may call on the principal and interest at any time. To date, the Agency has not made any repayments towards the loan as the City has deferred the repayment two years in a row. If by the end of fiscal year 06-07, the General Fund closes with higher revenues than originally projected, staff will make the recommendation to the City Council to only call the repayment amount necessary to close out the FY 06-07 budget without using any General Fund reserve and continue to defer the remaining amounts to future years. Staff considers this prudent, as it will preserve Redevelopment funds for redevelopment purposes while avoiding artificially inflating the General Fund reserve balance.

The General Fund expenditures at the end of December 206 remained on track. Spending was at 47.1% of the budget appropriations. Although it appears that there are some savings on the General Fund expenditures, several labor groups recently negotiated new contracts that provide retroactive salary adjustments. The expenditures as of December 2006 did not reflect these salary adjustments completely.

Recommendation: Receive staff report on the City's and Agency's finances.

***RA7. Approve FY 06-07 Mid Year Budget Modifications for Operating Budget and Capital Improvement Projects Budget (Staff Contact: Emma Karlen, 586-3145)**

Background: To maintain conformity with the City's current budgeting policies that any additional appropriation to a department's budget or re-appropriation of monies from one fund to another must be approved by the City Council, staff has included the attached budget change forms and justification memoranda from the departments for your review and consideration. These modifications are requested due to changing conditions or needs; the amounts originally appropriated in the department or project budget were inadequate. Pursuant to the budget policy, the Finance Subcommittee has reviewed these budget modifications and recommended to the City Council for approval.

The overall fiscal impact of these budget modifications will be \$180,934 net reduction to the fund balances of various funds of which \$9,810 will come from the General Fund unreserved, undesignated fund balance. There are sufficient balances in these funds to cover the additional appropriations. A summary of the various budget transfers and appropriations is included.

Necessary budget adjustments include the following categories:

Additional budget appropriations for operating and capital improvement project's expenses:

- 1) \$2,000 from the General Fund to Recreation Division to increase funding for the Senior Citizen Services supply budget due to increased participation in the Bingo program that requires additional supplies and snacks.
- 2) \$7,810 from the General Fund to Recreation Division to provide funding for the Senior Nutrition program due to increased participation in the program.
- 3) \$49,600 from the Recycled Water Enterprise Fund to pay for redwood trees replacement due to a lawsuit settlement.
- 4) \$50,000 from the Technology Equipment Replacement Fund to replace technology items that have failed in the current fiscal year. The replacement will include application servers, network equipment, and tape backup system and computers for the four Fire Stations.
- 5) Transfer \$38,805 from the Street Fund to Redevelopment Agency Project Fund to correct a mis-posting of revenue to the wrong fund in prior fiscal year 2005-06.
- 6) \$30,000 from the Redevelopment Agency Project Fund to Capital Improvement Project No. 4227 Gateway Signs to design and build a third entry feature sign.
- 7) \$2,719 from the Street Fund to Capital Project No. 4219 Silicon Valley – Intelligent Transportation System to close out this project. This amount is needed to offset the shortfall of grant funding.

Funding requests that do not impact Fund Balances:

- 8) \$52,467 to increase the Fire Department overtime budget. The funding source for the additional appropriation is from federal reimbursement for deployment in response to Hurricane Ernesto.
- 9) \$20,400 to increase the Fire Department plan check contractual services budget. The funding source for the additional appropriation is from fees collected for a dedicated inspector requested by a customer.

- 10) Transfer \$43,220 from various departments and funds cell phone line item budget to the Information Services budget in order centralize the management of cell phone bills in one department to achieve economy of scale.
- 11) Transfer \$236,777 from the Redevelopment Agency Project Fund to the Public Art Fund based on public art funding formula approved by the City Council.

Recommendation: Approve the Fiscal Year 2006-07 mid-year budget appropriations as itemized in the budget change form included in the Agency/Council agenda packet.

***RA8. City of Milpitas Investment Portfolio Status Report for the Quarter Ended December 31, 2006 (Staff Contact: Emma Karlen, 586-3145)**

Background:

In compliance with the State of California Government Code and the City's Investment policy, the City of Milpitas Investment Report for the quarter ended December 31, 2006 is submitted for your review and acceptance.

The Portfolio Summary Report included in the Council's packet provides a summary of the City's investments by type. It lists the par value, market value, book value, percentage of portfolio, term, days to maturity and the equivalent yields for each type of investment. The Portfolio Details Report provides the same information for each individual investment in the City's portfolio as of December 31, 2006.

As of December 31, 2006, the principal cost and market value of the City's investment portfolio was \$238,818,655 and \$237,822,503 respectively. When market interest rates increase after an investment is purchased, the market value of that investment decreases. Conversely, when market interest rates decline after an investment is purchased, the market value of that investment increases. If the investments are not sold prior to the maturity date, there is no market risk. Therefore, in accordance with the City's investment policy, all investments are held until maturity to ensure the return of all invested principal.

The City's effective rate of return for the period ended December 31, 2006 was 3.56%. The comparative benchmarks for the same period were 4.87% for LAIF (Local Agency Investment Fund) and 4.80% for the 12-month average yield of the 2 year Treasury Note. Excluding the long-term GNMA securities and Repurchase Investment Agreement, the weighted average maturity of the portfolio was 302 days.

The investment portfolio is in compliance with the City's investment policy. A combination of securities maturing, new revenues, and tax receipts will adequately cover the anticipated cash flow needs for the next six months. Cash flow requirements are continually monitored and are considered paramount in the selection of maturity dates of securities.

Recommendation: Receive and file the investment report for the quarter ended December 31, 2006.

***RA9. Approve Release of Agreement Affecting Real Property – KB Home/Elmwood Property, Parcel D (Staff Contacts: Richard Pio Roda, 586-3040, and Felix Reliford, 586-3071)**

Background:

KB Home South Bay will be closing on the first units in the Viento and Cielo subdivisions in the Elmwood project this month. KB Home requested a Partial Certificate of Completion and Release of the Agreement Affecting Real Property from the Redevelopment Agency on November 10, 2006 (note also the Partial Certificate of Completion is Item No. RA 10 on this agenda). KB Home representatives subsequently met with City staff and agreed upon the terms of the final inspections and occupancies of the units.

The property is encumbered by covenants contained in the Grant Deed from the Redevelopment Agency to KB Home and in the Agreement Affecting Real Property ("Agreement") that imposes the affordable housing obligations on the property. Both the Grant Deed covenants and the Agreement will need to be removed from title to the units to be sold. In the case of the affordable units, the covenants in the Agreement will be replaced by the Resale Agreement recorded at the closing of each affordable unit.

The attached Release of Agreement Affecting Real Property will remove the Agreement. Exhibit B to the Release lists the lots that are to be released as to each phase. To avoid the necessity of having the Redevelopment Agency execute a Release for each phase, this initial release applies to all units on the property except the affordable units. This approach is consistent with Section 9.b of the Agreement and would leave only the affordable units encumbered by the Agreement, as was contemplated in the Disposition and Development Agreement between the Agency and KB Home.

Recommendation: Authorize the Agency Executive Director to execute all documents necessary to Release the Agreement Affecting Real Property related to KB Home's Elmwood Property, Parcel D, subject to approval as to form by the Agency Attorney.

- *RA10. Authorize the City Manager to Execute a Partial Certificate of Completion for Certain Lots within Tract No. 9698, for KB Home Project No. 3160 (Staff Contact: Mehdi Khaila, 586-3328)**

Background:

On January 18, 2005, the City of Milpitas Redevelopment Agency and KB Home South Bay, Inc., entered into a Disposition and Development Agreement (DDA) concerning the residential development north and east of the county's Elmwood Correctional Facility. The recorded grant deed, which conveyed the subject real property from the Agency to KB Home, requires that the Redevelopment Agency issue a Certificate of Completion upon the completion of the infrastructure improvements in accordance with the DDA. Certain improvements have been satisfactorily completed to serve certain housing units as shown on the Partial Certificate of Completion, and therefore occupancy may be granted to only those housing units.

Recommendation: Authorize the Agency Executive Director to execute the Partial Certificate of Completion for certain residential units for KB Home Project No. 9698, subject to approval of the City Attorney as to form.

RA11. Agency Adjournment

XV. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

- * 1. Approve Mayor Esteves' Recommendations for Appointments/Re-Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves recommends the following Milpitas residents be appointed as noted:

Community Advisory Commission

Re-appoint Joselito Abelardo to a term that expires in January 2011.

Re-appoint Reena Choudhury as Alternate No. 1 to a term that expires in January 2009.

Re-appoint Heidi Pham as Alternate No. 2 to a term that expires in January 2009.

Parks, Recreation and Cultural Resources Commission

Appoint Robert Burrill (current Alternate No. 2) to Alternate No. 1 to a term that expires in June 2008.

Appoint Tim Chang as Alternate No. 2 to a term that expires in June 2007.

Senior Advisory Commission

Appoint Florentino Menor (current Alternate No. 1) as a regular member to a term that expires in December 2008.

Appoint Bernice Wrinkle (current Alternate No. 2) to Alternate No. 1 to a term that expires in December 2007.

Appoint Estrella Gilana as Alternate No. 2 to a term that expires in December 2008.

Recommendation: Move to approve the Mayor's recommended Commission appointments/re-appointments.

2. Approve Mayor Esteves' Recommendation for Appointment to the Planning Commission (Contact: Mayor Esteves, 586-3029)

Background: Mayor Esteves recommends Russel Bargstadt be appointed to the Planning Commission to a term that expires in December 2009.

Recommendation: Move to appoint Russel Bargstadt.

3. Request to Form a Citizens Sunshine Committee (Contact: Councilmember Polanski, 586-3024)

Background: Councilmember Althea Polanski requested discussion on her recommendation to appoint a Citizen's Sunshine Committee. This committee would be made up of 5 to 7 citizens that would be a citizen's oversight committee.

Recommendation: Hear report of Councilmember Polanski, and provide direction to staff as appropriate.

Public Art Committee

4. Approve Public Art Master Plan (Staff Contact: Diana Whitecar, 586-3059)

Background: Per Ordinance No. 271, the Public Art Committee drafted a three-year Public Art Master Plan, which identifies key sites over the next three years where public art can have the greatest impact, allow for coordination with existing construction projects, make the most effective use of the Public Art Fund to have a positive impact and long-term contribution to the City of Milpitas.

The Master Plan:

- Identifies high-impact projects and existing community public art goals;
- Considers carefully the current design process for the library project to maximize opportunities for artists and architect collaborations; and
- Includes complimentary project types that would accomplish city goals and assure a cohesive public art collection.

The Public Art Committee has been working towards the creation of the Public Art Master Plan over the past year, which identifies the project, location, and artist selection process. While developing the Master Plan, the Committee considered the balance of the Public Art Fund and

current construction projects within the Redevelopment Area. An estimated \$399,554 will be available in the Public Art Fund as of approval of the mid-year budget adjustments.

The first two projects the Committee recommends to begin working on are located at the new Milpitas Library. The outer entry of the library has been reserved for public art and an area within the library has been identified as a unique opportunity to produce digital art on the hanging screens.

The third proposed public art project would be a collaborative effort with the Economic Development Commission to place directional signs throughout the Redevelopment Area directing residents and visitors to places of interest, such as City Hall, the new library, downtown and the Great Mall.

The fourth project area proposed, should funding be available, is the outer area of the front of City Hall. This prominent location will be an advantage to the artist as she designs her artwork to compliment the current Cartwheels artwork and enhance the architectural design of City Hall.

If the City Council is supportive of the proposed Public Art Master Plan, the Committee will begin working on the two public art projects at their next meeting, including project budgets, scope of work and timeline. The Public Art Committee intends to recommend the artist and artwork selection at the June 19, 2007 City Council meeting.

Recommendation: Approve the Public Art Master Plan and direct the Committee to finalize the plan including budget identification, scopes of work and implementation timelines.

5. Approve Recommendation Not to Expand the Public Art Program (Staff Contact: Diana Whitecar, 586-3059)

Background: Per the Public Art Ordinance No. 271, the Public Art Committee is to provide a Semi-Annual Fundraising Report to the City Council. At the November 27, 2006, Public Art Committee meeting, the Committee reviewed the 2007 fundraising strategies presented by the Fundraising Subcommittee, and recommends two fundraising activities for the Public Art Committee to work on during the upcoming year. One fundraising activity proposed is to create "The Art of Cooking in Milpitas" cookbook, which would include recipes from the community and incorporate photos of Milpitas' public art throughout the book. The cookbook would be bound and artistically assembled to make for a nice gift or collectors item. The cookbook would be sold by Public Art Committee Members and throughout the year at various City buildings and events for \$10.00 each. All proceeds would be deposited into the Public Art Fund. The Committee also recommends hosting the "Tea in the Trees" event in December 2007, as the Arts Commission hosted in 2005. Tickets would be sold to the event and attendees would enjoy an evening of tea, food and entertainment.

The Committee estimates fundraising \$5,000 to \$7,000 in 2007, which would be earmarked for artwork maintenance costs and future public art projects.

Also, at the November 27, 2006 meeting, the Committee discussed the consideration of expanding the Public Art Program to the private sector as identified in the Public Art Ordinance. The Public Art Committee recommends postponing the Public Art Program to the private sector until Fiscal Year 2007-08, after the Committee has completed its initial public art projects.

Recommendation: Receive Public Art Fundraising Report and accept Public Art Committee's recommendation not to expand the Public Art Program to the private sector at this time.

Community Advisory Commission

- * 6. **Approve the 2007 Community Advisory Commission Work Plan (Staff Contact: Dennis Carrington, 586-3275)**

Background:

Pursuant to the Community Advisory Commission (CAC) Bylaws, the CAC serves as an advisory body to the City Council on matters affecting citizens relating to community improvement. Since 2000, the CAC has developed an annual work plan to focus on projects and programs that benefit the Milpitas community. Past work plan accomplishments include implementing the Neighborhood Beautification Ordinance, participating in the Streetscape Master Plan, hosting a town hall meeting, and participating in creek clean up, neighborhood clean up, neighborhood tree planting events, the Heritage Tree Ordinance. For the current year, the CAC held a working session during their January 2007 meeting to develop the 2007 Work Plan, as shown below:

2007 CAC WORK PLAN

Annual Recurring Tasks

1. Heritage tree nominations (January, May, October)
2. Community Development Block Grant public hearing process (March)
3. Participate in Arbor Day – Neighborhood Beautification Ordinance booth and Tree City USA designation (April), Global Village, and 4th of July parade (July)
4. National Night Out (August)
5. Neighborhood Beautification Awards (September)
6. Tree trimming (November)
7. Work session for annual work plan (December)

Short-term Goals/Projects (prioritized)

1. Tree Planting – Promote tree planting through outreach and tree protection awareness
2. Town Hall Meeting – Conduct a Town Hall Meeting in the Fall of election years
3. Outreach Program – Conduct an outreach program to the citizens of Milpitas to obtain feedback on community issues
4. Volunteerism Program – Conduct a program to encourage Milpitas citizens to volunteer
5. Cleanup of Blighted Areas – Determine blighted areas in Milpitas and encourage their redevelopment or conduct a program similar to the “Adopt A Highway” program
6. Expand the Neighborhood Watch Program – Work with City staff to expand the Neighborhood Watch Program

Recommendation: Approve the proposed 2007 Community Advisory Commission Work Plan.

XVI. ORDINANCE

- 7. Introduce Ordinance No. 48.18 Amending an Existing Subsection to Chapter 200 of Title V of the Milpitas Municipal Code Entitled “Weekly Disposal” (Staff Contact: Marilyn Nickel, 586-3347)**

Background: The existing Milpitas Municipal Code Title V, Chapter 200, Section 3.40 provides a ten-year period for the exemption on the bi-weekly solid waste collection, for businesses that purchased compactor equipment prior to May 1, 1996. This ten-year exemption period has elapsed as of May 1, 2006. Subsequently, all compactors operating within Milpitas should now be collected on a bi-weekly basis. Proposed text revisions to the code are included in the Council packet.

Recommendations:

1. Waive first reading of the ordinance beyond the title.
2. Introduce Ordinance No. 48.18 amending section 3.40 of Chapter 200, Title V, of the Milpitas Municipal Code relating to minimum disposal schedule requirements.

XVII. RESOLUTIONS

- * 8. Adopt Resolution Granting Initial Acceptance: Singley Area Street Rehabilitation Phase IV, Project No. 8181 (Santa Rita Drive), and Annual Street Resurfacing 2006, Project No. 4229 (Lomer Way & Holly Way) (Staff Contact: Andrew Brozyna, 586-3315)**

Background:

The projects provided replacement of existing curb and gutters, driveways, sidewalk and asphalt pavement sections, and installation of a subsurface drainage system at Santa Rita Drive, as well as removal and replacement of asphalt pavement at Lomer Way and Holly Way. The City Council awarded the projects to Alaniz Construction, Inc. on September 5, 2006. The projects have been successfully completed, and staff recommends that Council grant an initial acceptance and authorizes the reduction of the contractor’s faithful performance bond to 10% of the contract amount or \$17,274.51.

Recommendation: Adopt resolution granting initial acceptance of Projects No. 8181 and No. 4229, subject to one-year warranty period, and reducing the faithful performance bond to \$17,274.51.

- * 9. Adopt Resolution Granting Initial Acceptance: Main Sewage Pump Station Access Improvements, Phase II, Project No. 6079 (Staff Contact: Andrew Brozyna, 586-3315)**

Background:

This project provided a new access way to the Main Sewage Pump Station from McCarthy Blvd., and a left turn pocket on northbound McCarthy Blvd. into the pump station and involved demolition, grading, paving, drainage, utility relocation, and modifications to landscaping, irrigation, and fencing. The City Council awarded the project to Duran & Venables on September 5, 2006. The project has been successfully completed, and staff recommends that Council grant an initial acceptance, and authorize the reduction of the contractor’s faithful performance bond to 10% of the contract amount or \$22,691.95.

Recommendation: Adopt resolution granting initial acceptance of Project No. 6079, subject to one-year warranty period, and reducing the faithful performance bond to \$22,691.95.

- * 10. Adopt Resolution Approving the Agreement with the California Highway Patrol for Joint Use of the Weapons Firing Range (Staff Contact: Henry Kwong, 586-2419)**

Background: The Milpitas Police Department (MPD) and the California Highway Patrol (CHP) have jointly used a weapons firing range for numerous years. The owner of the property has been charging the MPD an annual rental fee of \$6,000 for approximately the past eight years. The responsibility for the rental fee has been shared equally by the MPD and the CHP. The CHP cannot enter into an agreement with a private party, but the CHP entered into a 3-year agreement with the MPD to pay their share of the rental fee and reimburse the MPD for maintenance costs. The agreement expired on December 31, 2006. The CHP is willing to enter into another 3-year agreement with the MPD under the same performance and use terms but at an increased rate to off-set additional maintenance and improvement costs. The CHP is willing to pay an annual total of \$8,400.00 (which consists of \$3000.00 in rent and \$5,400.00 in off-setting costs) in equal monthly payments of \$700 for three years.

Recommendations:

1. Adopt a resolution approving the agreement with the California Highway Patrol for joint use of the Weapons Firing Range.
2. Authorize the City Manager to execute the agreement with the CHP, subject to the approval as to form by the City Attorney.

*** 11. Adopt Resolution Approving the Response to the Santa Clara County Civil Grand Jury Report on Reducing Language Barriers in Domestic Violence Calls (Staff Contact: Henry Kwong, 586-2419)**

Background: The 2005-2006 Santa Clara County Civil Grand Jury transmitted its report on Reducing Language Barriers in Domestic Violence Calls. The report included the results of an 18-question survey completed by 15 law enforcement agencies in Santa Clara County. California Penal Code subsection 933 requires that the governing body of the public agency, which has been the subject of a Grand Jury report, shall comment to the Presiding Judge of the Superior Court on the findings and recommendations within 90 days. Staff prepared a written response.

Recommendation: Adopt a resolution approving the response to the Presiding Judge of the Superior Court of Santa Clara County.

*** 12. Adopt Resolution Certifying and Annexing Tract 9775 to Community Facilities District No. 2005-1, Project No. 3204 (Staff Contact: Mehdi Khaila, 586-3328)**

Background:

Western Pacific Housing, Inc. (the owner of Tract 9775) is required to annex the subject property into the Community Facilities District 2005-1 (CFD 2005-1) as a condition of the tentative map approved by the Council on November 15, 2005. Resolution No. 7521 adopted by the City Council on May 17, 2005 forming CFD 2005-1 authorized the City to annex properties to CFD 2005-1, which would then be assessed only for eligible public services, without further public hearing or formal election upon receipt of written consent from the owners.

Western Pacific Housing, Inc. has given consent and approval that this property be annexed to CFD 2005-1. Western Pacific Housing, Inc. has also agreed that such consent and approval constitutes election to annex to CFD 2005-1 and approval of the authorization for the levy of the special tax on the subject properties.

Recommendation: Adopt resolution certifying and annexing Tract 9775 to Community Facilities District No. 2005-1, Project No. 3204.

XVIII. BIDS AND CONTRACTS

*** 13. Award Construction Contract for Ball Park Fence Field Extension, Project No. 5064, to Central Fence Company (Staff Contact: Greg Armendariz, 586-3317)**

Background: On January 2, 2007, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals. The project provides for the installation of foul line fence extensions and backstops to meet ABAG (Association of Bay Area Governments) Height recommendations at the Milpitas Sports Center Fields. This Project also includes spectator protection facilities at the Dixon Landing Park Little League Fields. The Engineer's estimate was \$240,000.

The project was advertised and sealed bid proposals were opened on January 26, 2007. Three bid proposals were received ranging from \$96,163.87 to \$163,071.00, and the lowest responsible bidder was Central Fence. Sufficient funds are available in the project budget to award this project.

Recommendation: Award the Construction Contract for Project No. 5064, Ball Park Fence Field Extension to Central Fence Co. in the amount of \$96,163.87.

- * 14. **Approve Subdivision Improvement Agreement, Final Map and Public Improvement Plans for Paragon, Tract No. 9775, Project No. 3204 (Staff Contact: Mehdi Khaila, 586-3328)**

Background:

This 147-unit multi-family residential development will be served by public utilities located within the proposed public streets and public easements. The final map and improvement plans are ready for approval. Copies of the Subdivision Improvement Agreement and excerpts of the final map and improvement plans are included with the Council agenda packet. A complete set of the final map and improvement plans are available for review in the office of the City Engineer.

Recommendations:

1. Approve public improvement plans and final map for Paragon Housing, Project No. 3204.
2. Authorize the City Manager to execute the secured Subdivision Improvement Agreement, subject to the approval of the City Attorney as to form.

- * 15. **Approve Permittee Dedication and Improvement Agreement with Hercules L. Bacus and Brian T. Brager ("Permittee"), Project No. 2452 (Staff Contact: Mehdi Khaila, 586-3328)**

Background:

On August 15, 2006, the City Council approved a Conditional Certificate of Compliance (P-CC2006-1) for the three developed lots located at 1416-1444 Calle Oriente Drive, to make them legal lots of record.

Special conditions of the subject Certificate of Compliance require Hercules L. Bacus and Brian T. Brager (Permittee) to execute a secured public improvement agreement with the City to dedicate necessary public service utility easement and construct all necessary improvements set forth as undergrounding of overhead wires and offsite improvement plans for 1416, 1430 and 1444 Calle Oriente (Improvement Plans 2-1069).

Recommendation: Approve the Permittee Dedication and Improvement Agreement for Project No. 2452, and authorize the City Manager to execute the agreement, subject to the approval as to form by the City Attorney.

- * 16. **Approve Services Agreement with Cayenta Inc. to Upgrade the Utility System and the Financial System (Staff Contact: Flora Tzeng, 586-3128)**

Background:

The City of Milpitas entered into a license agreement with Cayenta Inc. to provide and implement a fully integrated financial system in 1996. The current version (version 7.2) of the City's existing utility system and financial system was implemented in September 2005. Cayenta Inc. no longer supports version 7.2 as of January 2007. To continue receiving releases

and updates, our system needs to be upgraded to version 7.3 for the financial system and version 7.4 for the utility system. There are many new functionalities added in the upgraded version, such as redesign of data entry for cash collections and purchase order, redesign of position control, and move in/move out continuous billing, etc.

The scope of work for this consultant contract will include project management, consulting services, technical services, as well as data testing to assist the City with the implementation. The fee for the services is \$65,750 plus travel and out-of-pocket expense, for a total not-to-exceed amount of \$72,000. Funds are available from the Capital Improvement Project No. 8107, Finance System, for this purpose.

Recommendation: Authorize the City Manager to execute a contract with Cayenta, Inc. to provide services for the purpose of upgrading Cayenta Utilities to version 7.4, and Cayenta Financials to version 7.3 for the total not-to-exceed amount of \$72,000.00.

*** 17. Authorize the City Manager to Execute Agreement Amendment No. 2 With Consolidated Engineering Laboratories Services (CEL) for On-Call Materials Testing and Inspection Services for Various Projects (Staff Contact: Andrew Brozyna, 586-3315)**

Background:

On April 18, 2006, the City Council awarded the Materials Testing and Inspection Services contract to Consolidated Engineering Laboratories (CEL) for a term of one year. On August 1, 2006, staff amended the CEL contract to provide additional special inspection and testing services for a total amount of \$328,000.

During the past year, the actual quantity of special inspection and testing services has exceeded the estimated amount, due to the large number of Capital Improvement Projects (CIP) and private development projects in construction. Staff recommends amending the CEL contract to provide additional special inspection and testing services for current and future CIP and private development projects. These services are necessary since the work requires specialty equipment, laboratory instrumentation, and certified personnel to verify the contractor has constructed the work in conformance with the plans, specifications, and building codes. The estimated cost for special inspection and testing services for the next year is approximately \$550,000, a portion of which will be reimbursed to the City by private developers for services performed on private development projects.

Staff recommends amending the CEL contract to extend the end date of the Materials Testing and Inspection Services with CEL to April 18, 2008, for an amount not-to-exceed \$550,000. There are sufficient funds in the various project budgets for the costs associated with this amendment.

Recommendation: Authorize the City Manager to execute an Agreement Amendment No. 2 with CEL for an amount not-to-exceed \$550,000 for Materials Testing and Inspection Services, and extend the end date for Materials Testing and Inspection Services to April 18, 2008 for current and future CIP and private development projects.

*** 18. Request for Authorization to Send Out a Request for Qualifications (RFQ) for Contract Planning Services (Staff Contact: Dennis Carrington, 586-3275)**

Background:

The City of Milpitas is experiencing an increase in the number of significant development projects at a time when experienced Planning staff is leaving the City for other positions, retiring and going on maternity leave. City Planning staff is seeking approval from the City Council to send out a Request For Qualifications (RFQ) for contract planning services to secure assistance in review and processing of development projects during the period of staff shortage, to ensure that no delays occur in development review and to ensure that the economic development of the City

of Milpitas can proceed as quickly as possible. The City seeks a firm with experience in processing and review of complex development permits, preparation of environmental documents, coordinating work with staff from several departments and agencies, experience in annexation proceedings, excellent report preparation and presentation skills, excellent customer service and extensive knowledge of the principles, practices and techniques of planning.

Fiscal Impact: there should be no fiscal impact to the City of Milpitas because funds used to pay for the contract planning services would come from the Project Job Accounts of the development projects being processed.

The proposed Request For Qualifications for contract planning services is included in the Council's agenda packet for consideration by the City Council.

Recommendation: Authorize Staff to issue the Request for Qualifications for contract planning services.

XIX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, FEBRUARY 20, 2007, AT 7:00 P.M.**